

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1074 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMSINGH GEMABHAI CHAUHAN

Versus

DHANWANSINH LALSINH

Appearance:

MR SANDIP C SHAH for Petitioner
NOTICE SERVED for Respondent No. 1
MR PV NANAVATI for Respondent No. 3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 29/03/2000

ORAL JUDGEMENT

Rule.

By way of this Civil Revision Application under
Section 115 of the Code of Civil Procedure, 1908, the
petitioner challenges the order recorded by the learned
M.A.C. Tribunal (Aux.I), Ahmedabad (Rural), dated
19.2.1999 in M.A.C. Petition 835/96.

2. On account of an accident which took place on 18.3.1995, Cleaner-cum-labourer Ramsingh Gemabhai Chauhan suffered injuries. He was working as Cleaner-cum-labourer in truck No.GJ.1.V 4419. A claim petition was filed being M.A.C. Petition No.836/96. The matter was settled on 18.4.1998 in a sum of Rs.1,60,000/in Lok Adalat. Thereafter the said petitioner Ramsingh Chauhan died on account of natural death on 1.8.1998. Since the aforesaid amount was deposited before the tribunal, the present petitioner being father of the deceased submitted an application that the aforesaid amount be disbursed to him. The learned tribunal heard the petitioner and found that since the original claimant has died, it would be necessary for the present petitioner to obtain succession certificate and without that, the amount cannot be disbursed to the petitioner.

Feeling aggrieved by the said order of the tribunal, the petitioner has approached this Court by way of this Revision Application under Section 115 of the Code.

2. Notice was issued to the other side. Mr P V Nanavati, learned Advocate appears for respondent No.3 in response to the notice. I have heard the learned Advocates for the parties and have perused the papers.

3. During the course of argument, Mr P V Nanavati arguing the matter on behalf of respondent No.3, makes a statement that the amount has been deposited by respondent No.3 before the learned tribunal and he has no objection if the amount is disbursed to the father of the original claimant i.e. to the petitioner. It is very clear that the petitioner has stated before the tribunal as well as before this Court that the deceased claimant was unmarried and there is no other heir or legal representative other than the petitioner. Even wife of the petitioner who was the mother of the deceased claimant had also passed away and the petitioner has no issue i.e. the deceased did not leave behind him either wife, children, brother or sister. Petitioner is the only legal heir/representative of the deceased.

4. In that view of the matter and considering the consent of the learned Advocate for the respondent, I find this to be a fit case where the amount involved should be ordered to be disbursed to the petitioner.

5. This Revision is accordingly allowed. The order

passed by the learned Tribunal is set aside. Learned tribunal is directed to disburse the amount deposited before it in such a way that 30% of the said amount shall be paid to the petitioner by crossed A/c. payee cheque and the balance shall be deposited in a Fixed Deposit with any Nationalised Bank of the choice of the petitioner for a period of seven years. The petitioner will be at liberty to earn periodical interest which will be accrued thereon. However, the petitioner will not be entitled to have any facility of loan or advances on the said Fixed Deposit Receipt.

Rule is made absolute to the aforesaid extent. There shall be no order as to costs.

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msp.